

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:)

SAM FAYMAN, M.D.)

File No. 16-2003-149503

Physician's and Surgeon's)
Certificate No. A53768)

Respondent.)
_____)

DECISION

The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on December 27, 2004.

IT IS SO ORDERED December 20, 2004.

MEDICAL BOARD OF CALIFORNIA

By: _____

Lorie G. Rice, Chair

Panel A

Division of Medical Quality

1 BILL LOCKYER, Attorney General
of the State of California
2 JANE ZACK SIMON, State Bar No. 116564
Deputy Attorney General
3 California Department of Justice
455 Golden Gate Avenue, Suite 11000
4 San Francisco, CA 94102-7004
Telephone: (415) 703-5544
5 Facsimile: (415) 703-5480

6 Attorneys for Complainant

7 **BEFORE THE**
8 **DIVISION OF MEDICAL QUALITY**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **SAM FAYMAN, M.D.**
201 N. Prairie Street
14 Galesburg, IL 61401

15 Physician and Surgeon's
16 Certificate No. A53768

Respondent.

Case No.16-2003-149503

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
18 proceeding that the following matters are true:

19 1. David T. Thornton (Complainant) is the Executive Director of the Medical
20 Board of California. He maintained this action solely in his official capacity and is represented
21 in this matter by Bill Lockyer, Attorney General of the State of California, by Jane Zack Simon,
22 Deputy Attorney General.

23 2. Sam Fayman, M.D. (respondent) is represented in this proceeding by Mike
24 Clark of the Clark Law Firm, 308 N. 3rd Street, Burlington, Iowa 52601.

25 3. Respondent has received and read the Accusation which is presently on
26 file and pending in case number 16-2003-149503 before the Board, a copy of which is attached
27 as Exhibit A.

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1 4. Respondent has carefully read, fully discussed with counsel, and
2 understands the charges and allegations in Accusation No. 16-2003-149503. Respondent also
3 has carefully read, fully discussed with counsel, and understands the effects of this Stipulated
4 Surrender of License and Order.

5 5. Respondent is fully aware of his legal rights in this matter, including the
6 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
7 counsel, at his own expense; the right to confront and cross-examine the witnesses against him;
8 the right to present evidence and to testify on his own behalf; the right to the issuance of
9 subpoenas to compel the attendance of witnesses and the production of documents; the right to
10 reconsideration and court review of an adverse decision; and all other rights accorded by the
11 California Administrative Procedure Act and other applicable laws.

12 6. Respondent voluntarily, knowingly, and intelligently waives and gives up
13 each and every right set forth above.

14 7. Respondent admits that he was disciplined in the State of Iowa as set forth
15 in the Accusation, and agrees that he has thereby subjected his California certificate to
16 disciplinary action pursuant to Business and Professions Code sections 141 and 2305. The
17 Accusation is based exclusively upon the discipline imposed by the Iowa Board, and not upon
18 any acts or conduct which occurred in California. Respondent lives and practices in Illinois, and
19 has no present intention of practicing medicine in California in the near future.

20 8. Respondent understands that by signing this stipulation he is enabling the
21 Medical Board of California to issue its order accepting the surrender of license without further
22 process. He understands and agrees that Board staff and counsel for complainant may
23 communicate directly with the Board regarding this stipulation, without notice to or participation
24 by respondent or his counsel. In the event that this stipulation is rejected for any reason by the
25 Board, it will be of no force or effect for either party. The Board will not be disqualified from
26 further action in this matter by virtue of its consideration of this stipulation.

27 9. Upon acceptance of this stipulation by the Board, respondent understands
28 that he will no longer be permitted to practice as a physician and surgeon in California, and also

1 agrees to surrender and cause to be delivered to the Board any license and wallet certificate in
2 his possession before the effective date of the decision.

3 10. The admissions made by Respondent herein are only for the purposes of
4 this proceeding, or any other proceedings in which the Medical Board or other professional
5 licensing agency is involved, and shall not be admissible in any other criminal or civil
6 proceeding.

7 11. Respondent fully understands and agrees that if he ever files an
8 application for relicensure or reinstatement in the State of California, the Board shall treat it as a
9 petition for reinstatement, and respondent must comply with all laws, regulations and procedures
10 for reinstatement of a revoked license in effect at the time the petition is filed.

11 12. Respondent understands that he may not petition for reinstatement as a
12 physician and surgeon for a period of two (2) years from the effective date of his surrender.
13 Information gathered in connection with Accusation number 16-2003-149503 considered by the
14 Division of Medical Quality in determining whether or not to grant the petition for
15 reinstatement. For the purposes of the reinstatement hearing, the allegations in Accusation
16 number 16-2003-149503 shall be deemed to be admitted by respondent, and respondent waives
17 any and all defenses based on a claim of laches or the statute of limitations.

18 13. The parties understand and agree that facsimile copies of this Stipulated
19 Surrender of License and Order, including facsimile signatures thereto, shall have the same force
20 and effect as the originals.

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11/29/04 MON 12:25 FAX 319 753 5333
JUN-28-2004 12:32CLARK LAW FIRM
DOJ MAILROOM 11TH FLOOR

415 355 5452 P.05

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ACCEPTANCE

I have carefully read the above stipulation and have fully discussed it with my attorney, Mike Clark. I enter into it freely and voluntarily and with full knowledge of its force and effect, do hereby surrender my Physician and Surgeon's Certificate Number A53768 to the Division of Medical Quality, Medical Board of California, for its formal acceptance. By signing this stipulation to surrender my license, I recognize that upon its formal acceptance by the Board, I will lose all rights and privileges to practice as a physician and surgeon in the State of California and I also will cause to be delivered to the Board any license and wallet certificate in my possession before the effective date of the decision.

DATED: 11/29/04
SAM FAYMAN, M.D.
Respondent

I have fully read and discussed with respondent Sam Fayman, M.D. the provisions of this Stipulated Surrender of License. I approve its form and content.

DATED: 11/30/04
MIKE CLARK
The Clark Law Firm

Attorneys for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Division of Medical Quality, Medical Board of California.

DATED: _____

BILL LOCKYER, Attorney General
of the State of CaliforniaJANE ZACK SIMON
Deputy Attorney General

Attorneys for Complainant

1 ACCEPTANCE

2 I have carefully read the above stipulation and have fully discussed it with my
3 attorney, Mike Clark. I enter into it freely and voluntarily and with full knowledge of its force
4 and effect, do hereby surrender my Physician and Surgeon's Certificate Number A53768 to the
5 Division of Medical Quality, Medical Board of California, for its formal acceptance. By signing
6 this stipulation to surrender my license, I recognize that upon its formal acceptance by the Board,
7 I will lose all rights and privileges to practice as a physician and surgeon in the State of
8 California and I also will cause to be delivered to the Board any license and wallet certificate in
9 my possession before the effective date of the decision.

10 DATED: _____.

11 _____
12 SAM FAYMAN, M.D.
Respondent

13 I have fully read and discussed with respondent Sam Fayman, M.D. the provisions
14 of this Stipulated Surrender of License. I approve its form and content.

15 DATED: _____.

16 _____
17 MIKE CLARK
The Clark Law Firm
18 Attorneys for Respondent

19 ENDORSEMENT

20
21 The foregoing Stipulated Surrender of License and Order is hereby respectfully
22 submitted for consideration by the Division of Medical Quality, Medical Board of California.

23 DATED: 11/30/04.

24 BILL LOCKYER, Attorney General
of the State of California

25 _____
26 JANE ZACK SIMON
Deputy Attorney General

27 Attorneys for Complainant
28

Exhibit A

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO September 8, 20 03
BY Valerie Moore ANALYST

BILL LOCKYER, Attorney General
of the State of California
JANE ZACK SIMON
Deputy Attorney General [SBN 116564]
455 Golden Gate Avenue, Suite 11000
San Francisco, California 94102
Telephone: (415) 703-5544
Facsimile: (415) 703-5480
Attorneys for Complainant

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 16-2003-149503

SAM FAYMAN, M.D.
201 N. Prairie Street
Galesburg, IL 61401

ACCUSATION

Physician and Surgeon's
Certificate No. A53768

Respondent.

The Complainant alleges:

PARTIES

1. Complainant, Ronald Joseph, is the Executive Director of the Medical Board of California (hereinafter the "Board") and brings this accusation solely in his official capacity.

2. On or about December 14, 1994, Physician and Surgeon's Certificate No. A53768 was issued by the Board to Sam Fayman, M.D. (hereinafter "respondent"). Said certificate will expire on August 31, 2004 unless renewed.

JURISDICTION

3. This accusation is brought before the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs (hereinafter the "Division"), under the authority of the following sections of the California Business and Professions Code (hereinafter "Code") and/or other relevant statutory enactment:

A. Section 2227 of the Code provides in part that the Board may revoke, suspend for a period of not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act, and may recover the costs of probation monitoring if probation is imposed.

B. Section 125.3 of the Code provides, in part, that the Board may request the administrative law judge to direct any licensee found to have committed a violation or violations of the licensing act, to pay the Board a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

C. Section 2305 of the Code provides, in part, that revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license to practice medicine issued by that state, that would have been grounds for discipline in California under the Medical Practice Act, constitutes grounds for discipline for unprofessional conduct.

D. Section 141 of the Code provides:

"(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

E. Section 14124.12(a) of the Welfare & Institutions Code provides in

1 pertinent part that upon written notice of the Medical Board of California a physician and
2 surgeon's medical license has been placed on probation as a result of a disciplinary action,
3 no Medi-Cal claim for the type of surgical service or invasive procedure giving rise to the
4 probationary order and performed on or after the effective date of said probationary order
5 or during the period of probation shall be reimbursed, except upon a prior determination
6 that compelling circumstances warrant the continuance of reimbursement during the
7 probationary period for procedures other than those giving rise to the probationary order.

8 4. Respondent is subject to discipline within the meaning of section 141 and
9 is guilty of unprofessional conduct within the meaning of section 2305 as more particularly set
10 forth herein below.

11 **FIRST CAUSE FOR DISCIPLINE**

12 (Discipline, Restriction, or Limitation Imposed By Another State)

13 5. On or about July 24, 2003, the Board of Medical Examiners of the State of
14 Iowa disciplined respondent's license to practice medicine in Iowa. The Board of Medical
15 Examiners cited respondent for concerns regarding record keeping and patient care provided by
16 respondent in 1995 and 1996. Respondent was warned that evidence of inappropriate record
17 keeping and patient care in the future could result in further disciplinary action, including the
18 revocation of respondent's Iowa medical license. Respondent was assessed a civil penalty and
19 placed on a two year probation with terms and conditions.

20 Attached as Exhibit A are true and correct copies of the Settlement
21 Agreement and Final Order and the Statement of Charges Against Sam Fayman, M.D., Before
22 the Iowa Board of Medical Examiners, filed on May 3, 2001 in Case No. 02-96-436.

23 6. The discipline imposed by the Board of Medical Examiners of the State of
24 Iowa constitutes a violation of section 141 and unprofessional conduct within the meaning of
25 Code section 2305.

26 **PRAYER**

27 **WHEREFORE**, the complainant requests that a hearing be held on the matters

1 herein alleged, and that following the hearing, the Division issue a decision:

- 2 1. Revoking or suspending Physician and Surgeon's Certificate Number
3 A53768 heretofore issued to respondent Sam Fayman, M.D.;
- 4 2. Revoking, suspending or denying approval of the respondent's authority to
5 supervise physician assistants;
- 6 3. Ordering respondent to pay the Division the actual and reasonable costs of
7 the investigation and enforcement of this case and to pay the costs of probation monitoring upon
8 order of the Division; and
- 9 4. Taking such other and further action as the Division deems necessary and
10 proper.

11 DATED: September 9, 2003.

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14 **RONALD JOSEPH**
15 Executive Director
16 Medical Board of California
17 Department of Consumer Affairs
18 State of California

19 Complainant

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Fayman.Acc

EXHIBIT A



STATE OF IOWA

THOMAS J. VILSACK
GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

IOWA BOARD OF MEDICAL EXAMINERS
ANN MOWERY, Ph.D., EXECUTIVE DIRECTOR

CERTIFICATION

STATE OF IOWA
Polk County, ss.

I, Theresa Yourison, Compliance Secretary for the Iowa Board of Medical Examiners (the Board), having legal custody of the disciplinary records of the Board, hereby certify that the attached are true copies of documents on file in the office of the Board relating to a medical licensure disciplinary action taken against **Sam Fayman, M. D.**

A handwritten signature in cursive script that reads "Theresa Yourison".

Theresa Yourison
Compliance Secretary
Iowa Board of Medical Examiners



August 11, 2003

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

SAM FAYMAN, M.D., RESPONDENT

File No. 02-96-436

SETTLEMENT AGREEMENT and FINAL ORDER

COMES NOW the Iowa Board of Medical Examiners (the Board), and Sam Fayman, M.D., (Respondent), on July 24, 2003, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4), and enter into this Settlement Agreement and Final Order to resolve the contested case currently on file.

1. Respondent was issued license number 30866 to practice medicine and surgery in Iowa on October 12, 1995.
2. Respondent's Iowa medical license is current and will next expire on August 1, 2003.
3. A Statement of Charges was filed against Respondent on May 3, 2001, and is awaiting hearing.
4. The Board has jurisdiction over the parties and subject matter.
5. Respondent is hereby CITED for concerns regarding recordkeeping and patient care provided in 1995 and 1996. Respondent is hereby WARNED that

evidence of inappropriate recordkeeping and patient care in the future may result in further disciplinary action, including revocation of your Iowa medical license.

6. Upon the Board's approval of this Settlement Agreement and Final Order, Respondent shall be assessed a civil penalty in the amount of \$4,000. The civil penalty shall be paid within 20 days thereafter by delivery of a check or money order, payable to the Treasurer of Iowa, to the executive director of the Board. The civil penalty shall be deposited into the State General Fund.

7. Respondent shall successfully complete no less than 20 credit hours of Category 1 continuing medical education (CME) in dermatology in each of the two years beginning the date of this Order. All such CME shall be prior approved by the Board and in addition to the CME required for medical licensure in the state of Iowa. Respondent shall provide the Board written proof of successful completion of the required Category 1 CME upon completion.

8. Respondent agrees to fully comply with random patient record audits performed by the Board within two (2) years of the date of this Order to determine the appropriateness of Respondent's patient care.

9. Respondent shall make appearances before the Board or a Board committee annually or upon request for two years from the date of this Order. Respondent shall be given written notice of the date, time and location for the appearances. Such appearances shall be subject to the waiver provisions of 653 IAC 12.6(6)(d).

10. Respondent shall notify the Board in writing within 30 days in the event he discontinues the practice of medicine under his Iowa medical license. Respondent shall not be required to satisfy paragraphs 8 and 9 above during periods in which he discontinues the practice of medicine under his Iowa medical license. Respondent shall receive credit for the period in which he satisfies the requirements in paragraphs 8 and 9 while practicing under his Iowa medical license. Respondent shall notify the Board in writing if he chooses to return to the practice of medicine under his Iowa medical license and he must then satisfy the remaining period required under paragraphs 8 and 9.

11. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in Iowa.

12. In the event Respondent violates or fails to comply with any of the terms or conditions of this Settlement Agreement and Final Order, the Board may initiate action to suspend or revoke Respondent's Iowa medical license or to impose other license discipline as authorized in Iowa Code Chapters 148 and 272 and 653 IAC 12.2.

13. Upon full compliance with the terms of this Settlement Agreement and Final Order, and upon expiration of the period of probation, Respondent's Iowa medical license shall be restored to its full privileges free and clear of any restrictions.

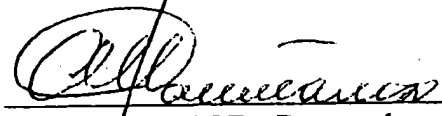
14. This Settlement Agreement and Final Order constitutes the resolution of a contested case proceeding.

15. By entering into this Settlement Agreement and Final Order, Respondent voluntarily waives any rights to a contested case hearing on the allegations contained in the Statement of Charges, and waives any objections to the terms of this Settlement Agreement.

16. This Settlement Agreement and Final Order, is voluntarily submitted by Respondent to the Board for consideration.

17. This Settlement Agreement and Final Order is subject to approval of the Board. If the Board fails to approve this Settlement Agreement and Final Order, it shall be of no force or effect to either party.

18. The Board's approval of this Settlement Agreement and Final Order shall constitute a **Final Order** of the Board.



Sam Fayman, M.D., Respondent

Subscribed and sworn to before me on July 8, 2003.

Notary Public, State of Iowa.



This Settlement Agreement and Final Order is approved by the Board on

July 24, 2003.

Dale R. Holdiman MD

Dale R. Holdiman, M.D., Chairperson
Iowa Board of Medical Examiners
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

cc: Theresa O'Connell-Weeg, Assistant Attorney General
Attorney for Respondent

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

SAM FAYMAN, M.D., RESPONDENT

File No. 02-96-436

STATEMENT OF CHARGES

COMES NOW the Iowa Board of Medical Examiners (the Board), on
May 3, 2001, and files this Statement of Charges against Sam Fayman, M.D.
(Respondent), a physician licensed pursuant to Chapter 147 of the 2001 Code of
Iowa and alleges:

1. Respondent was issued license number 30866 to practice medicine
and surgery in Iowa on October 12, 1995.
2. Respondent's Iowa medical license is current and will next expire on
August 1, 2001.
3. The Board has jurisdiction in this matter pursuant to Iowa Code
Chapters 147, 148 and 272C.

COUNT I

4. Respondent is charged with professional incompetency pursuant to Iowa Code section 147.55(2), 148.6(2)(g), (i), and 258A.10(2) (2001), and 653 IAC sections 12.4(2) (a) (b), (c), and (d), by demonstrating one or more of the following:

- a) A substantial lack of knowledge or ability to discharge professional obligations within the scope of the physician's or surgeon's practice;
- b) A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other physicians or surgeons in the state of Iowa acting in the same or similar circumstances;
- c) A failure by a physician or surgeon to exercise in a substantial respect that degree of care which is ordinarily exercised by the average physician or surgeon in the state of Iowa acting in the same or similar circumstances; and
- d) A willful or repeated departure from, or the failure to conform to, the minimal standard of acceptable and prevailing practice of medicine and surgery in the state of Iowa.

COUNT II

5. Respondent is charged under Iowa Code section 147.55(3) (2001) and 653 IAC section 12.4(3)(c) with engaging in practice harmful or detrimental to the public.

COUNT III

6. Respondent is charged under Iowa Code section 147.55(3) (2001) and 653 IAC 12.4 (3)(a) with knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of medicine.

CIRCUMSTANCES

7. The Board reviewed a peer review report regarding Respondent's dermatological care and concluded that Respondent, demonstrated a pattern of deviation from the prevailing standard of care in at least seven (7) cases, including but not limited to the following:

Patient #1: This patient was a 79 year-old male with no history of skin cancer, suffering from scaling lesions of the sun exposed areas of the face. Respondent diagnosed the patient with "precancers" (actinic keratoses) and advised the patient to return monthly for repeated liquid nitrogen treatments. Respondent froze 2-3 lesions at each monthly visit. A board certified dermatologist later found no evidence of skin cancer or "precancers" (actinic keratoses) and indicated that monthly visits are more frequent than the standard of care suggests for this condition. The peer review committee concluded:

- a. Respondent inappropriately misdiagnosed this patient's condition as actinic keratoses.
- b. Respondent inappropriately recommended unnecessary repeated monthly liquid nitrogen treatments.

Patient #2: This patient was a 45 year-old female with a seven year history of an intermittent hand and foot eruption leading to fissuring and pain. Respondent performed "scrapings" and diagnosed a fungal infection. The patient indicated that Temovate ointment had been helpful in the past. Respondent indicated that the ointment could be harmful. Respondent then prescribed an ointment from the same potency class of topical corticosteroids. Respondent also prescribed a topical antifungal and recommended that she return twice weekly until her hands improved. A board certified dermatologist later diagnosed psoriasis and successfully treated the condition. The peer review committee concluded:

- a. Respondent inappropriately performed unnecessary and costly diagnostic procedures on this patient.
- b. Respondent inappropriately diagnosed this patient's common dermatological condition as a fungal infection.
- c. Respondent inappropriately diagnosed the patient's psoriasis leading to an unnecessary delay in diagnosis and treatment.
- d. Respondent inappropriately provided inaccurate information regarding proper treatment modalities.
- e. Respondent inappropriately recommended unnecessarily frequent visits.

- f. Respondent failed to make an appropriate referral for further evaluation leading to unnecessary delay in the appropriate treatment of the patient's condition.

Patient #3: This patient was a 49 year-old female with a red spot on her nose with no history of scaling, bleeding or growth. Respondent performed a biopsy. Respondent indicated that the biopsy did not show cancer but recommended that the patient return frequently in case it developed into cancer. A board certified dermatologist later determined that the patient had blanchable erythema, that a biopsy was unnecessary and there was little risk that cancer would develop. The peer review committee concluded:

- a. Respondent failed perform an appropriate evaluation.
- b. Respondent inappropriately failed to diagnose the patient's blanchable erythema, leading to a delay in the appropriate diagnosis and treatment of the patient's condition.
- c. Respondent performed an unnecessary biopsy and recommended unnecessary office visits.
- d. Respondent failed to make an appropriate referral for further evaluation leading to delay in the diagnosis and treatment of the patient's condition.

Patient #4: This patient was an 18 year-old female with a history of acne who had been treated by Respondent for 1-2 years. The patient had done well in the past on a regimen of oral tetracycline and topical medications.

Respondent refused to prescribe tetracycline due to potential side effects and directed that the patient return monthly for acne surgery and acid washes. When the patient was preparing to leave for college, Respondent indicated he no longer wished to treat her, was reluctant to make a referral and refused to prescribe more than one month's medication. The peer review committee concluded:

- a. Respondent inappropriately treated the patient's acne with acne surgery and acid washes.
- b. Respondent performed unnecessary, frequent and costly procedures.
- c. Respondent recommended unnecessarily frequent visits.
- d. Respondent provided inaccurate information regarding appropriate treatment modalities.
- e. Respondent failed to make an appropriate referral to another physician.

Patient #5: This patient was a 42 year-old male with intermittent episodes of diffuse hand swelling with multiple blisters and intense pruritus who was referred to Respondent by the patient's primary care physician. Respondent learned that insurance would only pay for a single dermatological visit. Respondent performed a limited evaluation, failed to reach a diagnosis, prescribed a lotion that did not help, and instructed the patient not to return unless insurance would cover more visits or he would

pay for more visits out of his pocket. The peer review committee concluded:

- a. Respondent failed perform an appropriate evaluation.
- b. Respondent inappropriately failed to diagnose the patient's dermatological condition.
- c. Respondent failed to appropriately treat the patient's dermatological condition.
- d. Respondent failed to make an appropriate referral for further evaluation leading to delay in the appropriate treatment of the patient's dermatological condition.

Patient #6: This patient was a 40 year-old female who sought treatment for acne. The patient contacted Respondent's office and was informed that Respondent was board certified in dermatology. The patient sought dermatological care from Respondent based on this assertion. Respondent is not a board certified dermatologist. The peer review committee concluded:

- a. Respondent allowed his staff to misrepresent Respondent's board certification in dermatology.

Patient #7: This patient was a 54 year-old male with a history of skin cancer of the nose and chest. Respondent diagnosed skin cancer of the left forearm which was excised. Respondent recommended that the patient return for numerous treatments over a 4-month period and Respondent

treated 20-30 pre-cancerous lesions of the back and arms with liquid nitrogen. A board certified dermatologist later evaluated the patient and found no evidence of pre-cancerous lesions (actinic keratoses). The peer review committee concluded:

- a. Respondent inappropriately diagnosed numerous pre-cancerous lesions (actinic keratoses).
- b. Respondent inappropriately performed unnecessary, repeated, and costly bi-monthly liquid hydrogen treatments.
- c. Respondent failed to appropriately treat the patient's dermatological condition.
- d. Respondent failed to provide accurate information to the patient regarding the nature of actinic keratoses, including the likelihood of developing into cancer and the appropriate treatment modalities.
- e. Respondent failed to make an appropriate referral for further evaluation.

On this the 3rd day of May, 2001, the Iowa Board of Medical Examiners finds cause to file this Statement of Charges.

Dale R. Holdiman MD

Dale R. Holdiman, M.D., Chairperson
Iowa Board of Medical Examiners
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686